

Message Text

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PAGE 01 MADRID 10441 01 OF 03 121301Z
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LIMITED OFFICIAL USE SECTION 1 OF 3 MADRID 10441

C O R R E C T E D C O P Y (FOR SECTION INFORMATION)

E.O. 11652: N/A
TAGS: SHUM, SP
SUBJECT: ANNUAL HUMAN RIGHTS REPORT - SPAIN

REF: STATE 218059

FOR EUR ONLY

1. THE FOLLOWING INFORMATION IS PROVIDED IN RESPONSE TO
REFTEL:

2. RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING
FREEDOM FROM:

A. TORTURE--FREEDOM FROM TORTURE IS GUARANTEED BY LAW
AND RESPECTED IN PRACTICE. IT AND ALL OTHER FREEDOMS
ADDRESSED IN THIS SECTION ARE EXPLICITLY GUARANTEED BY THE
NEW CONSTITUTION, WHICH WILL GO INTO EFFECT BEFORE YEAR'S
END (SEE BELOW, PARA 8).

B. CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT.
THE SPANISH GOVT PROHIBITS THE PRACTICE OF CRUEL, INHUMAN
OR DEGRADING PUNISHMENT.

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PAGE 02 MADRID 10441 01 OF 03 121301Z

C. ARBITRARY ARREST OR IMPRISONMENT. THE SPANISH GOVT
CONTINUES TO ENFORCE LAW AND POLICY AGAINST ARBITRARY
ARREST AND DETENTION.

D. DENIAL OF FAIR PUBLIC TRIAL. THE SPANISH JUDICIARY
IS INDEPENDENT AND INCREASINGLY RESPECTED, AND THE JUDGES
ARE PROMOTED ON A STRICT MERIT SYSTEM. FAIR PUBLIC TRIAL

IS PROVIDED FOR BY LAW AND OBSERVED IN PRACTICE.

E. INVASION OF THE HOME. INVIOABILITY OF THE DOMICILE IS GUARANTEED IN PRACTICE BY THE SPANISH GOVERNMENT AND IS PROTECTED BY THE NEW CONSTITUTION. ISOLATED INSTANCES OF INVASION OF THE HOME REPORTED IN LAST YEAR'S HUMAN RIGHTS REPORT APPEAR TO HAVE BEEN ELIMINATED.

3. RESPECT FOR CIVIL AND POLITICAL LIBERTIES:

A. FREEDOM OF THOUGHT, RELIGION, ASSEMBLY. THESE AND THE FULL RANGE OF BASIC POLITICAL FREEDOMS ARE GUARANTEED IN PRACTICE BY THE GOVT, AND ARE GIVEN PRIDE OF PLACE IN THE NEW CONSTITUTION. THE ONLY NOTABLE EXCEPTION WE ARE AWARE OF IS THE INCARCERATION, IN BARCELONA, OF FOUR MEMBERS OF A MIME TROUPE (ELS JOGLARS) WHO WERE SENTENCED TO TWO YEARS IMPRISONMENT BY A MILITARY COURT FOR INSULTING THE ARMED FORCES IN ONE OF THEIR PANTOMINES (SEE BARCELONA 619; MADRID 3047; 2981).

THIS JUDICIAL ABER-
RATION CONTINUES TO BE POSSIBLE (THOUGH ALMOST ALWAYS AVOIDED) ONLY BECAUSE OF THE IMPOSSIBILITY THUS FAR OF REFORMING THE ENTIRE LEGAL CODE AND THE CONCOMITANT NECESSITY TO DEPEND ON THE NON-ENFORCEMENT OF MANY FRANCO-ERA LAWS. BOTH THE GOVT AND THE OPPOSITION LIMITED OFFICIAL USE

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PAGE 03 MADRID 10441 01 OF 03 121301Z

ARE TREATING THE CASE AS THE
UNFORTUNATE EXCEPTION THAT IT IS.

THE ONE WOMAN PRISONER, MIRIAM DE MAEZTU, HAS FOR SOME TIME BEEN PERMITTED TO SPEND HER WEEKENDS IN LIBERTY. THE THREE MEN--ANDREU SOLSONA, GABRIEL RENOM, ARNAU VILARDEBO--HAVE ALSO BEEN GRANTED THE SAME STATUS, AND IT IS ANTICIPATED THAT ALL FOUR WILL SOON BE PLACED IN "REGIMEN ABIERTO" WHICH ALSO WILL ALLOW THEM TO WORK OUTSIDE OF PRISON, ONLY RETURNING AT NIGHT. MEANWHILE, THE PARENTS OF THE FOUR AND A NUMBER OF CATALAN POLITICIANS, POLITICAL PARTIES, LAWYERS, DOCTORS AND OTHER PROFESSIONAL PEOPLE, INCLUDING GENERALITAT PRESIDENT TARRADELLAS, ARE IN THE PROCESS OF PETITIONING THE KING FOR A PARDON FOR THE FOUR.

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PAGE 01 MADRID 10441 02 OF 03 112049Z
ACTION EUR-12

INFO OCT-01 ISO-00 ONY-00 SSO-00 /013 W
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FM AMEMBASSY MADRID
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LIMITED OFFICIAL USE SECTION 2 OF 3 MADRID 10441

TRAVEL AND IMMIGRATION POLICIES. THERE ARE NO RESTRICTIONS ON FREEDOM OF MOVEMENT, FOREIGN TRAVEL, OR IMMIGRATION. THE BASQUE TERRORISTS WHO WERE RELEASED FROM PRISON LAST YEAR ON CONDITION THAT THEY LEAVE SPAIN (SEE LAST YEAR'S REPORT) APPEAR NOW TO ENJOY FULL FREEDOM TO TRAVEL WITHIN SPAIN AND TO FOREIGN COUNTRIES.

C. DEMOCRATIC PROCESSES ASSURING THE FREEDOM TO PARTICIPATE IN THE POLITICAL PROCESS. FREE DEMOCRATIC ELECTIONS WERE HELD JUNE 15, 1977, AND MUNICIPAL ELECTIONS ARE EXPECTED IN EARLY 1979. THE NEW CONSTITUTION GUARANTEES THE RIGHT TO PARTICIPATE IN THE POLITICAL PROCESS IN GREAT DETAIL, INCLUDING ENFRANCHISING 18-YEAR-OLDS. IT ALSO REFERS EXPLICITLY TO THE FUNDAMENTAL IMPORTANCE OF POLITICAL PLURALISM AND TO THE ROLE OF POLITICAL PARTIES IN GUARANTEEING THAT PLURALISM.

4. RECENT TRENDS IN GOVERNMENTAL POLICIES RELATING TO THE FULFILLMENT OF BASIC NEEDS FOR FOOD, SHELTER, HEALTH CARE AND EDUCATION:

A. POLICIES RESPONDING TO OR IGNORING NEEDS OF THE POOR. SPAIN IS A DEMOCRACY, AND THE COUNTRY'S LEAST PRIVILEGED ARE AN IMPORTANT POLITICAL CONSTITUENCY WHICH IS COURTED BY ALL OF THE MAJOR PARTIES. WHILE SPAIN'S
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PAGE 02 MADRID 10441 02 OF 03 112049Z

WELFARE SYSTEM IS NOT AS EXTENSIVE AS SOME OTHER EUROPEAN COUNTRIES', MOST SPANIARDS RECEIVE SUFFICIENT FOOD, SHELTER AND HEALTH CARE. THE AUSTERITY PROGRAM WHICH HAS BEEN NECESSITATED BY SPAIN'S SERIOUS INFLATION AND BALANCE OF PAYMENTS PROBLEMS HAS INEVITABLY BOOSTED THE COUNTRY'S UNEMPLOYMENT LEVEL, TO OVER 1 MILLION (7.1

(PCT), BUT THE GOVT IS ATTEMPTING TO MITIGATE THE PLIGHT OF THE UNEMPLOYED BY BROADENING UNEMPLOYMENT BENEFITS AND INCREASING PUBLIC INVESTMENT TO CREATE MORE JOBS, PARTICULARLY IN HARDEST HIT AREAS. THE GOVE ALSO WILL PLACE HIGHER PRIORITY ON JOB-CREATION IN ITS ECONOMIC PLANNING FOR THE NEXT 2-3 YEARS. STEPS ARE ALREADY UNDERWAY, THROUGH UNIVERSITY REFORM AND A NEW LAW ON PUBLIC EDUCATION, TO EXPAND EDUCATIONAL OPPORTUNITY, AND THIS PROCESS WILL ACCELERATE WITH THE APPROVAL OF THE CONSTITUTION. FAR-REACHING FISCAL REFORM ALSO HAS BEEN INSTITUTED, WHICH WILL ESTABLISH FOR THE FIRST TIME IN SPAIN A FUNCTIONING, PROGRESSIVE TAX SYSTEM. THE NEW CONSTITUTION SPECIFICALLY GUARANTEES THE RIGHT TO FOOD, SHELTER, HEALTH CARE AND EDUCATION.

B. DIVERTING RESOURCES TOWARD THE ELITE AND AWAY FROM THE POOR. THERE IS NO CONVINCING EVIDENCE THAT SPAIN HAS SUFFERED CORRUPTION SUFFICIENT TO DIVERT NATIONAL RESOURCES IN SIGNIFICANT AMOUNTS TO ELITES.

5. STATUS OF WOMEN. WOMEN ARE INCREASINGLY MAKING THEIR VOICES HEARD AT THE DECISIONMAKING LEVELS OF SPANISH GOVT, THROUGH THE MAJOR POLITICAL PARTIES AND INDEPENDENT FEMINIST ORGANIZATIONS, AND THEY ARE PARTICIPATING DIRECTLY IN MANY OF THOSE DECISIONS. A NUMBER OF STEPS HAVE BEEN TAKEN IN THE AREA OF WOMEN'S RIGHTS, BOTH THROUGH REFORM OF SOME EXISTING LAWS AND THE NON-ENFORCE-LIMITED OFFICIAL USE

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PAGE 03 MADRID 10441 02 OF 03 112049Z

MENT OF OTHERS. MOST IMPORTANT, THE NEW CONSTITUTION EXPLICITLY PROVIDES, INTER ALIA, FOR NON-DISCRIMINATION AS TO SEX, AND IT OPENS THE DOOR TO DIVORCE AND ABORTION.

6. LABOR RIGHTS. LABOR RIGHTS, SUCH AS THE RIGHT TO STRIKE, ARE SPECIFICALLY RECOGNIZED IN THE NEW CONSTITUTION, AS THEY ARE NOW IN PRACTICE.

7. ETHNIC OR RACIAL DISCRIMINATION. RACIAL DISCRIMINATION IS NOTABLE BY ITS ABSENCE IN SPAIN AND IT IS EXPLICITLY PROHIBITED BY THE NEW CONSTITUTION.

8. GOVERNMENTAL RESPONSIBILITY FOR THE FOREGOIN RECORD:

A. THE GOVT OF SPAIN, WITH THE SUPPORT AND COLLABORATION OF THE MAJOR POLITICAL PARTIES, CONTINUES TO MAKE IMPRESSIVE PROGRESS TOWARD CONSOLIDATING AND PERMANENTLY GUARANTEEING THE FULL RANGE OF POLITICAL, SOCIAL AND ECONOMIC FREEDOMS WHICH HAVE BEEN ESTABLISHED (IN SOME CASES) AND STRENGTHENED (IN OTHERS) DURING THE SPANISH TRANSITION TO DEMOCRACY. WITHOUT

EXCEPTION THE GOVT HAS STRENGTHENED AND EXPANDED UPON THE GAINS REPORTED IN LAST YEAR'S HUMAN RIGHTS REPORT. IN THIS CONNECTION, SPANISH PRACTICE CONTINUES IN MANY CASES TO BE MORE LIBERAL THAN SPANISH LAW, MOST OF WHICH STILL IS CARRYOVER LEGISLATION FROM THE FRANCO ERA. BUT THE NEW SPANISH CONSTITUTION, WHICH CURRENTLY IS IN THE LAST STAGES OF SENATE CONSIDERATION AND WILL BE APPROVED IN REFERENDUM PROBABLY IN NOVEMBER, CODIFIES IN CONSIDERABLE DETAIL A BROAD RANGE OF POLITICAL AND SOCIO-ECONOMIC RIGHTS. THE CONSTITUTION, AND THE ORGANIC LAWS AND OTHER

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PAGE 01 MADRID 10441 03 OF 03 112049Z

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FM AMEMBASSY MADRID

TO SECSTATE WASHDC IMMEDIATE 6079

LIMITED OFFICIAL USE SECTION 3 OF 3 MADRID 10441

LEGISLATION THAT WILL FLESH IT OUT, WILL PROVIDE THE LEGAL FOUNDATION AND FRAMEWORK FOR THE "DE FACTO" DEMOCRACY INTO WHICH THE KING AND SUAREZ HAVE TRANSFORMED SPAIN. PROBABLY THE SINGLE GREATEST THREAT TO THE CONSOLIDATION OF THESE FREEDOMS IS POLITICAL TERRORISM, BUT THE GOVT CONTINUES TO RESPOND TO THE TERRORISM THREAT WITH DISCRIMINATION IN ORDER NOT TO ALLOW TERRORISM TO UNDERMINE THE NEWLY WON BASIC FREEDOMS OF THE SPANISH PEOPLE.

9. GOVT ATTITUDE AND RECORD REGARDING INTERNATIONAL AND NON-GOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS. THE GOVT OF SPAIN HAS SHOWN NO ANTIPATHY TO INDEPENDENT OUTSIDE INVESTIGATIONS OF SPAIN'S HUMAN RIGHTS SITUATION. WE KNOW OF NO UP-TO-DATE INDEPENDENT REPORT ON SPAIN. BARBOUR

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